Supreme Court, U.S.
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No. 97-776

In the
Supreme Court of the United States
October Term, 1997

In re the Marriage of

BRUCE EDWARD CAMPBELL,

Petitioner,

v.

JO LYNNE CAMPBELL,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF
THE STATE OF MINNESOTA

BRIEF OF RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Does the Minnesota state district court have continuing subject matter to enforce, by a contempt proceeding, its valid order pertaining to visitation and child support where one of the parties is a member of an Indian Tribe?

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Respondent responds to and opposes the Petition for Writ of Certiorari of the Order of the Minnesota Supreme Court denying review of the decision of the Minnesota Court of Appeals affirming the state district court order.

STATEMENT OF LEGAL ISSUES AND THEIR RESOLUTION BY THE MINNESOTA COURT OF APPEALS

Does the state district court have jurisdiction over child support and maintenance obligations between Indians and non-Indians? The Minnesota Court of Appeals held yes.

Does the state district court have continuing subject matter jurisdiction when a party subject to a dissolution decree moves onto an Indian reservation? The Minnesota Court of Appeals held yes.

Did Respondent waive the jurisdiction of the state district court of Minnesota by establishing a residence outside the State of Minnesota? The Minnesota Court of Appeals held no.

The Minnesota Court of Appeals held that Petitioner, having failed to raise the issue of forum non conveniens at the trial court, was precluded from raising it for the first time on appeal.

Did the district court order the Tribe to automatically withhold a portion of Petitioner's income for child support payments? The Minnesota Court of Appeals held no.

THE CRITERIA FOR REVIEW PART III RULE 10, RULES OF THE SUPREME COURT OF THE UNITED STATES ARE NOT SATISFIED IN THIS CASE

The decision in question is not a decision of the United States Court of Appeals.

The Minnesota Supreme Court in denying further review of a decision of the Minnesota Court of Appeals did not

consider an important federal question and there is no conflict with other state court decisions which have addressed the issue presented in this case.

The Minnesota Supreme Court has not decided an important question of federal law that should be settled by the United States Supreme Court. The Minnesota Court of Appeals decision does not conflict with relevant decisions of the United States Supreme Court. The Petition for Certiorari should be denied.

STATEMENT OF THE CASE

Petitioner, a member of the Prairie Island Mdewankanton Dakota Tribe, initiated a marriage dissolution action in state district court in 1989. Respondent is not a member of the Tribe. Following entry of the decree, both parties sought further relief from the state district court at various times. In July, 1996, both parties sought affirmative relief from the state district court concerning the issues of child custody, visitation, and child support. On August 7, 1996, the state district court issued an Order addressing the merits of all of the issues raised by each party. Petitioner did not appeal from that Order.[1]

Petitioner failed to comply with provisions in the August 7, 1996 Order pertaining to the payment of child support and income withholding. Respondent brought a Motion to find Petitioner in constructive civil contempt. At the hearing on the Motion, Petitioner argued that the state district court lacked jurisdiction to find him in contempt for failure to obey the Court's August 7, 1996 Order.

In an Order dated November 12, 1996, the state district court ruled that it had subject matter jurisdiction to find

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[1] Pursuant to Rule 104.01, Minnesota Rules of Civil Appellate Procedure, the August 7, 1996 Order became final and enforceable on September 15, 1996, 30 days after the Notice of Entry of Order was served on Petitioner.

Petitioner in contempt and scheduled the matter for an evidentiary hearing. Petitioner appealed that Order to the Minnesota Court of Appeals.

In a unanimous unpublished decision[2] filed June 3, 1997, the Minnesota Court of Appeals upheld the state district court's finding of continuing subject matter jurisdiction. In an Order dated August 5, 1997, the Minnesota Supreme Court denied Petitioner's request for further review.

ARGUMENT IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI

The issue in this case is simple. Does the Minnesota state district court have subject matter jurisdiction to find Petitioner in constructive civil contempt for his refusal to obey a valid state district court Order? The Minnesota state district court, the Minnesota Court of Appeals, and the Minnesota Supreme Court all decided in the affirmative.

The existence of a tribal court and tribal judicial code alone is insufficient to divest the state district court of continuing subject matter jurisdiction of a proceeding over which it has exercised continuous jurisdiction since 1989. As the Minnesota Court of Appeals correctly noted, Petitioner's cause of action did not arise on the reservation, the tribe has not made any jurisdictional claim, no associated petition or motion has been brought before the tribal court, and the Mdewakanton Dakota Tribe is not a party to this action.

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[2] Whether an opinion is published is guided by Minn. Stat. § 480A.08 subd. 3 (1997), which provides for publication of opinions which establish a new rule of law, overrule a previous Court of Appeals decision not reviewed by the Minnesota Supreme Court, provide important procedural guidelines in interpreting statutes or administrative rules, involve a significant legal issue or significantly aid in the administration of justice. All other opinions are unpublished. Special Rules of Practice for the Minnesota Court of Appeals, Rule 4 (1997).

The interests of the Tribe in this matter are minimal at best. The state district court's continual assertion of jurisdiction over Petitioner to insure that he comply with a valid state district court order for, among other things, payment of child support, does not in any way infringe on the development of a tribal family law code and tribal court system.

In his appeal to the Minnesota Court of Appeals, Petitioner claimed the state district court did not have continuing jurisdiction. In fact, it is the tribal court which does not have jurisdiction. Petitioner ignores the fact that Respondent is not subject to the personal jurisdiction of the tribal court.

Petitioner also ignores the fact that he sought affirmative relief, in 1989, 1992, and 1996, from the same state district court which he claimed, in his appeal to the Minnesota Court of Appeals, does not have continuing jurisdiction. The Minnesota Court of Appeals noted that it was of primary importance in reaching its decision that Petitioner voluntarily invoked the state district court's jurisdiction.

In his Petition for Review to the Minnesota Supreme Court, Petitioner conceded that the state district court has subject matter jurisdiction but argued that the state court should defer to the tribal court. There is nothing to defer to as there is no action pending in tribal court.

Petitioner continues to mischaracterize the issue in this case. He claims in his Petition for Writ of Certiorari that the state district court is attempting to divest the tribal court of jurisdiction. The tribal court is not asserting jurisdiction in this case. The tribal court does not have jurisdiction to find Petitioner in contempt for failing to comply with a state district court order.

Ordering Petitioner to pay child support pursuant to the Minnesota child support guidelines and to have his child support payment automatically withheld from his income does not in any way undermine the authority of tribal courts over

reservation affairs or infringe on the rights of Indians to govern themselves.

The state district court Order dated August 7, 1996, directed Petitioner to "obtain an enforceable Order from the Prairie Island Mdewakanton Dakota tribal court for payment of his child support, ..." Brief of Petitioner, Appendix D page 22a. There is nothing in the language of the state district court Order that requires the Tribe to do anything.

Title 3: Domestic Relations Judicial Code of the Prairie Island Mdewakanton Dakota Community Chapter II Section 8 states "[t]he tribal court may order a delinquent obligor to authorize the Tribal Council to withhold his or her child support obligation from each per capita payment until the child support obligation expires or is terminated."[3] This provision pertains only to obligors and does not require any action by a person, such as Respondent, who is entitled to receive child support payments.

If Petitioner took all possible steps to obtain the tribal court order and was unsuccessful, the district court could not find him in contempt for failure to obtain the order for income withholding. But as the Minnesota Court of Appeals recognized, Petitioner did nothing to even attempt to obtain an income withholding order from the Tribe. Brief of Petitioner, Appendix B, page 8a. If he had paid child support as ordered, Respondent would not have brought a Motion to find him in contempt.[4]

There is an absolute state interest in upholding the decision of the Minnesota state district court, the Minnesota Court of Appeals, and the Order of the Minnesota Supreme Court denying further review. A state district court has

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[3] Petitioner's per capita payments were subject to an income withholding order from December, 1994 through April, 1996.

[4] Petitioner has not been found in contempt. The matter has not been returned to state district court because Petitioner is current in payment of child support.

continuing subject matter jurisdiction to enforce its own orders in a civil contempt action. Any other outcome would create chaos whenever a tribal member was a party in a state court action as the tribal member could ignore, without consequence, any state district court order with which he disagreed.

THE STATE DISTRICT COURT HAS CONTINUING SUBJECT MATTER JURISDICTION TO ENFORCE ITS PRIOR VALID ORDERS

The state district court correctly determined in its Order dated November 12, 1996 that it has continuing subject matter jurisdiction to enforce its Order dated August 7, 1996 regarding the payment of ongoing child support.

In Desjarlait v. Desjarlait, 379 N.W.2d 139, 141 (Minn. App. 1985) review denied (Minn. Jan. 31, 1986), the Court of Appeals held that a tribal member voluntarily invokes the jurisdiction of the state court when he files a petition for marriage dissolution. Petitioner in this case voluntarily submitted to the jurisdiction of the state district court by filing a petition for dissolution of the parties' marriage in 1989. He subsequently sought affirmative relief from the district court on two occasions, in May, 1992, and again in July, 1996 after the tribal court had enacted its own Judicial Code concerning Domestic Relations.[5]

There is a long standing rule in federal courts that jurisdiction is determined at the time a suit is filed and, after vesting, cannot be ousted by subsequent events, including action by the parties. Berke, et al. v. Resolution Trust Corporation, 483 N.W.2d 712, (Minn. App. 1992) citing F. Alderete Gen Contractors, Inc. v. United States, 715 F.2d

[5]Title Three of the Prairie Island Mdewankanton Dakota Community Judicial Code, pertaining to Domestic Relations, was adopted on December 10, 1992.

1476, 1480 (Fed. Cir. 1983). This general principle is followed in Minnesota. See Jasperson v. Jacobson, 224 Minn. 76, 82-83, 27 N.W. 716, 788, 793 (1947).

Petitioner's argument in his appeal to the Minnesota Court of Appeals, that the state district court lost jurisdiction over the issue of enforcement and modification of child support because Respondent and the children reside in Alabama, and he moved to the reservation **after** service of the Motion to find him in constructive civil contempt, is contrary to well settled Minnesota case law. This exact issue, whether subsequent actions of the parties divests the state district court of continuing jurisdiction, was specifically addressed in Anderson v. Beaulieu, 555 N.W.2d 537 (Minn. App. 1996). The Minnesota Court of Appeals held that Beaulieu's action after the action had been commenced did not deprive the state district court of subject matter jurisdiction. Furthermore, the court concluded that a tribe's interest in self-governance is outweighed by the state interest in securing child support payments. Id. at 541.

No tribunal has civil contempt power to enforce an order of another tribunal. Furthermore, the State of Minnesota provides services to Respondent in the form of collecting child support payments, pursuant to Title 42, U.S.C. Chapter 7, Subchapter IV-D. If Petitioner should receive income from sources other than the tribe, Respondent would need a state district court order to obtain withholding from that source. Minnesota has a strong interest in retaining jurisdiction to continue to provide federally mandated child support services to Respondent,[6] and to insure compliance with its own valid district court orders.

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[6] Petitioner is mistaken in his claim on page 10 of his brief that the State of Minnesota is not providing services to Respondent. Child support payments are collected by Goodhue County, Minnesota in accordance with Minnesota and federal law.

THE TRIBAL COURT DOES NOT HAVE PERSONAL JURISDICTION OVER RESPONDENT

Respondent is not Indian and not a member of the Tribe. Although the children are enrolled members of the Tribe, they have never resided on the reservation. Respondent and both children have resided in the State of Alabama since September, 1994. Respondent has never done anything to subject herself to the personal jurisdiction of the tribal court. Even when the matter in state district court involves only tribal members and their children, the Minnesota Court of Appeals has determined that the district courts have subject matter jurisdiction. See e.g., Anderson v. Beaulieu, 555 N.W.2d 537 (Minn. App. 1996); Becker County Welfare Department v. Bellcourt, 453 N.W.2d 543 (Minn. App. 1985) review denied (Minn. Jan. 31, 1986); State of Minn. ex rel. Donnell v. Jourdain, 374 N.W.2d 204 (Minn. App. 1985); but see In re the Matter of the Custody of K.K.S., 508 N.W.2d 813 (Minn. App. 1993).

In re the Matter of the Custody of K.K.S., 508 N.W.2d 813 (Minn. App. 1993) is distinguishable from the present case in that unlike the non-Indian parent in K.K.S. who had subjected himself to the authority of tribal court by choosing to live on the reservation, Respondent has never resided on the reservation. Furthermore, in K.K.S., the state district court declined jurisdiction almost as soon as the pleadings were filed. In the instant case, the state district court has been exercising continuous jurisdiction since 1989, issuing orders in 1989, 1990, 1991, 1992, and 1996.

THE PRINCIPLE OF COMITY DOES NOT SUGGEST THAT THE STATE COURT DEFER TO THE TRIBAL COURT

Blacks Law Dictionary defines Judicial Comity as the principle in accordance with which the courts of one state or

jurisdiction will give effect to the laws and judicial decisions of another, not as a matter of obligation, but out of deference and respect. It is not a rule of law but one of practice, convenience and expediency. It has a substantial value in securing uniformity of decision and discouraging repeated litigation of the same question. Mast, Foos & Co. v. Stover Mfg. Co., 177 U.S. 485, 488, 20 S. Ct. 708, 44 L.Ed. 856 (1900).

Petitioner's argument of comity does not make sense. Respondent would be substantially prejudiced by having to **relitigate** an issue in tribal court which was decided in state district court. Both parties' motions were argued at the July 24, 1996 hearing and decided on the merits. Petitioner and Respondent were personally present in state district court. The only issue now before the state district court is its jurisdiction to enforce the August 7, 1996 Order.

Petitioner admits that he wants to be in tribal court because he believes he will be ordered to pay less child support. This is blatant forum shopping, not comity. If a tribal member can litigate in state court, and then, not liking the decision, relitigate in tribal court, state district court decisions will be meaningless whenever a tribal member is a party.

PUBLIC LAW 280 GRANTS CONTINUING SUBJECT MATTER JURISDICTION TO THE STATE DISTRICT COURT IN THIS CASE

Petitioner argues that Public Law 280, codified as amended at 18 U.S.C. § 1162 (1994), 25 U.S.C. §§ 1321-1324 (1994), and 28 U.S.C. § 1360 (1994), relied on by the state district court in its memorandum in support of the November 12, 1996 Order, does not grant jurisdiction to the state in this case. Petitioner's position is contradicted by the decision in Becker County Welfare Department v. Bellcourt, 453 N.W.2d 543 (Minn. App. 1990), where the Minnesota

Court of Appeals held that Public Law 280 authorizes state courts to exercise jurisdiction in child support cases involving one or more tribal members.

Civil laws that are of "general application to private persons or private property" have full force and effect in Indian country. Becker at 544 citing 28 U.S.C.A. § 1360(a) (Supp. 1989). Civil laws of general application include laws of "contract, tort, marriage, divorce, insanity, descent, etc." Bryan v. Itasca County, Minnesota, 426 U.S. 373, 384 n. 10, 96 S. Ct. 2102, 2108-09 n.10, 48 L.Ed.2d 710 (1976) (emphasis added). In Becker, both parties and the child were not only members of the tribe but resided on the reservation. Nevertheless, the Minnesota Court of Appeals concluded that the state district court had jurisdiction to collect child support.

Petitioner argues, on page 10 of his Brief, that Public Law 280 provides that "[a]ny tribal ordinance ... shall, if not inconsistent with the applicable civil law of the State, be given full force and effect." Earlier in his argument on page 8, Petitioner states that "[t]he Minnesota child support guidelines differ significantly from the Prairie Island child support guidelines ... " In his brief to the Minnesota Court of Appeals, Petitioner freely acknowledged that the reason he wants this matter in tribal court is his hope for a lower amount of child support. Since there is some inconsistency between the tribal ordinance and state civil law, the state law must control in this case.

The cases cited by Petitioner in support of his argument that Public Law 280 deprives the state district court of jurisdiction to use its contempt powers to enforce a valid state district court order are distinguishable from the instant case. Williams v. Lee, 358 U.S. 217, 79 S.Ct. 269, 3 L.Ed.2d 251 (1959) involved a cause of action arising on the reservation. Ex Parte Crow Dog, 109 U.S. 556, 3 S.Ct. 396, 27 L.Ed. 1030 (1883) involved a criminal prosecution of a murder of an Indian by an Indian occurring on the reservation. Fisher v. District Court, 424 U.S. 382 (1976) dealt with an adoption

proceeding arising on the reservation in which all of the parties were members of the Tribe, residing on the reservation.

In Iowa Mutual Insurance Co. v. LaPlante, 480 U.S. 9, 107 S. Ct. 971, 94 L.Ed.2d 10 (1987), the suit was originally commenced in tribal court. Similarly, National Farmers Union Insurance companies v. Crow Tribe of Indians et al., 471 U.S. 845, 105 S. Ct. 2447, 85 L.Ed.2d 818 (1985) also dealt with an action originally commenced in tribal court. No suit has been commenced in tribal court in the instant case.

Santa Clara Pueblo et al. v. Martinez et al., 436 U.S. 49, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978) was an action for declaratory and injunctive relief by a tribal member against the Tribe regarding interpretation of a tribal ordinance. Washington et al. v. Confederated Tribes of the Colville Indian Reservation et al. 447 U.S. 134, 100 S.Ct. 2069, 65 L.Ed.2d 10 (1980) involved the issue of the right of the state to impose state taxes and regulations to transactions and activities occurring on the reservation.

Montana v. United States, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981) involved interpretation of treaties as they related to a tribe's ability to regulate hunting and fishing. In holding that the state of Montana had the authority to regulate fishing and hunting on the bed of the river passing through the reservation, and that the Tribe had no right to regulate hunting and fishing on land within the reservation owned by non-Indians, the Court stated that the Tribe's inherent sovereignty does not support regulation of non-Indian activities. Indian Tribes have lost many of the attributes of sovereignty, particularly as to relations between the tribe and non-members of the tribe. See, United States v. Wheeler, 435 U.S. 313, 98 S.Ct. 1079, 55 L.Ed.2d 303 (1978). Exercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations cannot survive without express congressional delegation.

California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987), dealt with the

issue of the jurisdiction of the state to regulate behavior on the reservation. The Court in Cabazon specifically noted that Public Law 280 as codified in 18 U.S.C. § 1162(a) (1994) limits a state's jurisdiction in civil matters to private civil litigation.

The underlying cause of action giving rise to this contempt proceeding is exactly the type of action contemplated by Congress in enacting 18 U.S.C. § 1162 (a) (1994), granting jurisdiction to state courts. This is doubly so where the only issue before the state court is its ability to insure compliance with a validly issued order for the payment of child support.

THE EXERCISE OF STATE COURT JURISDICTION IN THIS MATTER WILL NOT UNDERMINE THE TRIBE'S RIGHT TO SELF-GOVERNMENT

In cases involving the assertion of a right by the state against a member of a tribe, the issue of the right of the state to assert subject matter jurisdiction depends on whether the action of the state will undermine the tribe's right of self-government. Red Lake Band of Chippewa Indians v. State, 311 Minn. 241, 246, 248 N.W.2d 722, 726 (1976). In Red Lake, the Minnesota Supreme Court recognized three principles of law:

1. The State of Minnesota has no authority to govern the affairs of persons within the territorial boundaries of the reservation except as specifically authorized by Congress.

2. The State of Minnesota has authority to require that tribal members submit to the jurisdiction of the state with respect to activities occurring outside the boundaries of the reservation.

3. The State should not, in the absence of a compelling state interest, impose burdens upon tribal members when such burdens will undermine the effectiveness of the band's efforts to achieve effective self-government.

Addressing the first principle, the state district court in the instant case is not attempting to govern the affairs of a person within the territorial boundaries of the reservation. The only issue is the state court's jurisdiction to enforce a prior order, issued as a result of an action in which Petitioner had sought affirmative relief from the court.

Under the second principle, the state district court has authority to require that tribal members submit to the jurisdiction of the state with respect to activities occurring outside the boundaries of the reservation. Here, the state district court is merely asserting its right to enforce a prior order issued following a hearing in which Petitioner sought affirmative relief from the state district court.

Turning to the third principle, the mere fact that the tribal court has a system in place for dealing with child support matters does not defeat the **continuing** jurisdiction of the state court over this issue. Petitioner does not contend that the tribal court has **exclusive** jurisdiction over domestic matters.

In a recent issue of the Prairie Island Tribal Community Newsletter, the Tribe advised its members as follows: "... if there is an existing State child support order, the Tribal member should bring a motion [in state court] to have it modified before starting an action in tribal court." (emphasis added). The tribe also advised its members that even if the tribal court has not ordered the Community to withhold child support from an obligor's per capita payment as ordered by the state court, the tribal member should not violate the state court order by refusing to pay support. Appendix 1.

THE TRIBAL JUDICIAL CODE PERMITS THE WITHHOLDING OF CHILD SUPPORT FROM MEMBER PER CAPITA PAYMENTS

Petitioner claims that the tribe does not permit withholding child support from per capita payments and that the state district court in its August 7, 1996 Order directed him to do something which he cannot do. This claim is simply not true. Petitioner's child support payments were withheld from his per capita payments from December, 1994 through April, 1996. After that date, payments could continue to be withheld from per capita payments if a tribal court order for withholding was obtained. The second paragraph of Title 3, Section 8 of the Prairie Island Mdewakanton Dakota Community Judicial Code provides:

> The tribal court may order a delinquent obligor to authorize the Tribal Council to withhold his or her child support obligation from each per capita payment until the child support obligation expires or is terminated.

THE DISTRICT COURT HAS JURISDICTION TO FIND PETITIONER IN CONTEMPT

The purpose of the contempt power is to provide the court with the means to enforce its orders. See Erickson v. Erickson, 385 N.W.2d 301, 304 (Minn. 1986). The trial court has broad discretion to hold a person in contempt. Id., see also Hopp v. Hopp, 279 Minn. 170, 156 N.W.2d 212 (1968). In a constructive civil contempt action, the objective of the court is to secure compliance with an order presumed to be reasonable. The Court "must be free to compel performance by methods which are speedy, efficient, and sufficiently flexible." Id. at 216.

Constructive contempt includes "disobedience of any lawful judgment, order or process of the court." Minn. Stat. § 588.01 subd. 3 (1996). Contempt may be punishable by fine, imprisonment, or both. Minn. Stat. § 588.01 (1996). Confinement, however, should not be directed to compel a party to do something which he is wholly unable to do. Id. A judge may refuse to accept inability to perform as an excuse for failure to comply if he is satisfied that the party directed to pay has not made a reasonable effort by means of his own selection to conform to an order well within his inherent, but unexercised, capacities. Id. at 217.

CONCLUSION

The state district court has continuing subject matter jurisdiction to enforce its valid Orders. The Petition for Writ of Certiorari should be denied.

Dated: December 10, 1997

Respectfully Submitted,

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Child Support - Common Questions

An increasing number of Tribal members have been contacting the Accounting and Family Health Departments with questions regarding child support obligations. **Be advised that the "answers" will vary depending on your individual circumstances. Before taking any action, we urge you to consult with an attorney who practices in the area of child support and family law.**

1. Q: Are the child support guidelines for the State of Minnesota consistent with the Community's guidelines as enforced in Tribal Court?

A. Yes. In most cases involving one child, the obligator is required to pay approximately 25% of his/her monthly net income for child support to the custodial parent regardless of whether the proceeding is in State or Tribal Court. "Net income" is an individual's gross income less federal and state tax withholdings and qualified pension deductions.

2. Q. If the Tribal Court has not ordered the Community to withhold my child support obligation, as ordered in State court, from my monthly per capita payment, should I still make the payment?

A. Yes, if you do not want to violate the state court order. The State court will continue to pursue collection of your child support obligation even though the Community did not make the withholding.

3. Q. If my income has significantly decreased within the last year, will my child support obligation automatically adjust downward?

A. No. If, for example, your child support obligation was set in state court at a time when your monthly per capita income was much higher, you will need to bring a motion in

the same court to have it readjusted to reflect your current income. At the same time, you may ask the court to credit you with the amount of money you paid beyond what was required by the guidelines. Although the court may refuse to order the credit, if it is allowed, your future payments may be lowered to reflect the credit.

4. Q. As a Tribal member and parent of a Tribal child, can I start a child support proceeding in tribal court?

A. Yes, in most instances Tribal Court will have jurisdiction to hear the case and establish support for the Tribal member child. However, depending upon the residence and source of income of the obligor, it may be necessary to have the Tribal child support order entered in State court. Also, if there is an existing State child support order, the Tribal member should bring a motion to have it modified before starting an action in Tribal Court.

5. Q. If I have not made my monthly child support payments, how far back in time may the court look in establishing the amount of money I owe?

A. In most instances, the court may go back three years in calculating the amount owed.

THE ABOVE "ANSWERS" ARE ONLY INTENDED TO PROVIDE GENERAL GUIDANCE IN RESOLVING YOUR CHILD SUPPORT ISSUES. YOU ARE ADVISED TO CONTACT AN ATTORNEY WITH YOUR PARTICULAR CHILD SUPPORT QUESTIONS.